

**Premises at 1-20 Spurgeon Street and 58 Great Dover Street****Summary Chronology 2001-2012****November 2001**

Retrospective planning permission sought by Mr Lee Jiggins requesting change of use of first and second floors of 1-20 Spurgeon Street to a temporary hostel. Application subsequently amended to include the upper floors of 58 Great Dover Street following an internal site visit by LBS Case Officer. (Internal layout of the premises proved to be significantly different from the plans included in the original application).

**August 2002**

Application refused under delegated powers but premises continued to be used as a hostel. This breach of planning control was never addressed by LBS.

**June 2003**

Letter from XXXX to LBS requesting enforcement of certificate of lawfulness dated 25 October 2001. Yellow lines obliterated / illegal parking and use of street as depot / lines reinstated but illegal parking continues / intimidation of wardens and local residents / noise and trash.

**March 2004**

Submission from XXXX to Planning Inspectorate referencing the fact that *"the upper part of 1-20 Spurgeon Street continues to be illegally used as a temporary hostel, although retrospective planning permission for this was refused on 6 August 2002 due to the significant number of noise and other environmentally-related objections by local residents."*

**May 2004**

Dismissal of Lee Jiggins' appeal against the enforcement notice by Planning Inspectorate. Enforcement notice upheld.

**June 2004**

New planning application submitted by Mr Jiggins requesting permission for change of use to a hostel at 1-20 Spurgeon Street and 58 Great Dover Street. Duplicate of submission made in November 2001.

**July 2004**

Enforcement Investigation letter received from James Sherry, Interim Head of Development and Building Control. Formal objection submitted by XXXX to David Barratt, Enforcement Officer, on 15 July.

**September 2004**

No acknowledgment received to July letter – XXXX chased David Barratt via voicemail message 30 September

**October 2004**

XXXX chased David Barratt again via voicemail 7 October. Received email following day informing her that his employment with LBS ends on 15 October. Following four site visits he is clear that Express National Carriers (ENC) is "patently in breach" of the enforcement notice. On 8 October 2004 he dispatched instructions to Jason Polley in LBS Legal to bring prosecutions. Jason Polley arranged service of the enforcement

notices in late 2003 and David presumes he will be handling the litigation. XXXX is advised to liaise with Jason if process is inordinately protracted. On a planning level David advises XXXX to keep in touch with Jon Fullelove, Enforcement Team Leader, after his departure.

David informs XXXX verbally before he leaves LBS that his department is "suffused in a culture of indifference". He suggests that XXXX writes a strong letter to John East, Paul Evans' deputy. He confirms that the breach by ENC represents a material change of use and further site visits will be necessary.

XXXX subsequently left three messages for Jon Fullelove which were not returned. She spoke to Jason Polley. He recommended speaking to Shelley Edwards, a lawyer, in mid-November, to discuss progress.

#### **November 2004**

XXXX left further messages for Jon Fullelove which were not returned. On 26 November she spoke to Georgina on legal reception. Was told Jason Polley would email her. He did not.

On 28 November XXXX emailed Jon Fullelove and James Sherry with copies to ward councillors and Emma Williamson of Willowbrook Centre. Pointed out she had still had no response to 15 July letter, although James Sherry's July communication stated that Southwark's target was to reach a decision within 8 weeks. They have now had more than 4 months. Referred to new planning application number which shows that Mr Jiggins is requesting RETENTION of use of part of the Spurgeon Street premises as a hostel, although permission was never granted for this material change of use.

#### **December 2004**

XXXX emailed Jason Polley in Legal on 14 December requesting a response to messages left on 26 November and 6 December. She reminded him that Southwark's policy was to respond to residents within 10 working days. No reply received.

#### **January 2005**

Letter dated 28 January sent to Cllr Lorraine Zuleta by Deborah Holmes, Borough Solicitor. Planning Law Team within Legal Services had informed her that no instructions to prosecute had been received. She recommended contacting Jonathan Fullelove to confirm who has taken over the matter. She goes on to say that Legal Services can only take action once formally instructed by the Planning Department.

*[At this point XXXX gave up trying to get any sense out of LBS. She started working on the case again in March 2007.....]*

#### **March 2007**

A Final Notice for Mr Jiggins from Rossendale's Bailiffs was delivered to XXXX's block - they didn't know Jiggins' address. He owed £1277 for non-payment of council tax and costs. XXXX called them to tell them where to deliver their notice but warned them that unwelcome deliveries are not taken at 1-20 Spurgeon Street and it was likely they would be turned away.

#### **July 2007**

Following a meeting and discussion of the case with Cllr Tim McNally he forwarded relevant correspondence from XXXX on to Christine Zacharia, Head of Planning Enforcement, on 1 July. He did not receive a reply. On 29 July XXXX forwarded the

correspondence on to Christine again, copying in Cllrs Lorraine Zuleta and Tim McNally. She did not reply or acknowledge receipt.

### **August 2007**

On 13 August XXXX forwarded the same thread on to Christine Zacharia one more time, again copying in Lorraine and Tim. No reply or acknowledgement. On 24 August XXXX spoke with Neil Loubser in Enforcement, who asked her to forward the thread on to him with a copy to Dennis Sangweme, his Team Leader.

On 28 August XXXX received an apology from Dennis for the council's delayed action on this matter. He had followed up with Legal regarding the instructions previously given them and was advised that due to the passage of time there was a need to prepare fresh instructions. He passed XXXX's enquiry on to the Prosecutions Consultant on his team, Donald McPhee. XXXX was told that the case had been prioritised and she would be kept informed of progress.

### **October 2007**

Donald McPhee carried out a series of site visits and established non-compliance with the requirements of the enforcement notice. Steps were taken to build a prosecution case.

### **November 2007**

Donald McPhee informed XXXX that the correspondence sent to Mr Jiggins with a view to prosecuting him for non-compliance had been returned. His current address was not known. Letters were then sent to ENC at their registered address. These letters went unanswered.

### **October 2008**

The ENC Company Secretary was summoned to appear at Camberwell Magistrates' Court on 21 October. No one turned up on the day.

### **November 2008**

Another summons was issued for 24 November. The defendants did not turn up. The advanced disclosure served on Lee Jiggins had been returned as "not at this address".

### **February 2009**

Lee Jiggins was summoned again on 10 February. The Defendants did not appear but the Court was content that ENC were aware of the hearing date and they found the matter proved in their absence. A fine of £5000 was imposed together with a Victim Surcharge and an Order for payment and costs amounting to £8043. Following this the charge against Lee Jiggins was withdrawn.

### **March 2009**

On 18 March Matthew Cullen and Glen Camenzuli briefed the Borough and Bankside Community Council on the history of the case. They stated that it was possible to prosecute ENC again for the continuing breach of the enforcement notice but they suspected that a further conviction would not necessarily secure compliance. They suggested seeking an injunction in the High Court as an alternative sanction and said that the council's solicitors had already been briefed on this. They gave details of the standard of evidence required to seek the injunction. This included a statement of case from the Case Officer, evidence from residents and councillors of the nuisance/disturbance being caused by the continued offence, and any other evidence available from the local parking administrators.

*[No further action was taken by the council. XXXX took up the case again in May 2011...]*

### **May 2011**

XXXX informed Dennis Sangweme that the gardener at Chadwick Square (the development where she lives) had spoken to the workmen at 58 Great Dover Street and they told him that the premises were being turned into a 3-star hotel which would be ready in plenty of time for the Olympics. They also told him that work on most of the rooms had been completed. Dennis carried out a site visit but was unable to gain access to the upper floors. ENC operatives denied that any conversion into a hotel was taking place.

### **August 2011**

XXXX chased Dennis. He responded saying that he had been monitoring the site for the past month but had been unable to progress the case. He asked if XXXX had seen any further evidence of hotel activity. XXXX informed him that there was a great deal of activity going on around the site although the owners were purposely keeping the entrance at 58 Great Dover Street extremely derelict-looking. She told him that new windows had been put in on the upper floors. The Spurgeon Street entrance was being painted, changes were being made to the interior, and they had put in a large reception desk. She also told him that men had been working on the flat roof above the Spurgeon Street section of the building, which is visible from the courtyard of Chadwick Square.

### **October 2011**

XXXX chased Dennis. Did not receive reply.

### **November 2011**

XXXX submitted written question for submission at 7 November Borough and Bankside Community Council meeting.

### **December 2011**

XXXX received statutory communication dated 7 December from Gary Rice, Head of Development Management, regarding breach of planning control and use of premises as a hostel/hotel. On 8 December she received email from Gavin Blackburn, Senior Enforcement Officer. He had visited the site. In his view there was no breach of planning control at the time of his visit. The ENC operative he spoke to claimed to be unaware of any building work or occupation by anyone else. Gavin informed XXXX that the land is owned by a company registered in the British Virgin Islands. He believed the owner was probably someone local as the land registry contact address is c/o a Camberwell firm of solicitors.

### **January 2012**

XXXX met with Gavin Blackburn. He confirmed that when he carried out an internal inspection the accommodation had been upgraded but he was told by ENC operatives that the rooms were still being used for hostel purposes. He confirmed that if the premises **are** still being used as a hostel it is not possible for the council to take any enforcement action due to the length of time (10+ years) that the premises have now been illegally used for this purpose. If however the owners propose to change the use to a hotel it will be possible for the enforcement clock to start ticking given that there are differences between hostels and hotels in planning terms.

**Gavin informed XXXX that the premises had been used by Southwark Council between 2000 and 2007 as a hostel to house asylum seekers. From 2007 onwards it**

had only been used "from time to time" by other accommodation providers (Cornwood and Barryroad) and from July 2010 the usage as a hostel was very infrequent.

Gavin subsequently informed XXXX via email that he had not yet been able to establish the extent and duration of time during which the premises has been used as a hostel. He stated that enforcement action will be difficult on this site, because of the passage of time.

He assured XXXX that he had asked the Council's parking manager to keep him informed of any problems with non compliance with the parking regulations on Spurgeon Street. He reminded her that there has been considerable staff turnover in relation to this case. In terms of the current level of breach he hoped that parking wardens would be able to feed that information back to him.

### **April 2012**

On 29 April XXXX sent Gavin the link to the "Hotel London Bridge" website which stated that this illegal hotel opened in April 2012. She asked him to advise her by return what action the council intended to take now that the hotel was up and running.

She reminded him that she had first reported the unauthorised activities at these premises to Dennis Sangweme on 24 May 2011 and had been updating him on developments ever since. She said that she found it difficult to believe that almost one year had elapsed since this breach of planning control was reported to the relevant officers at Southwark but nothing had been done to prevent the hotel opening without hindrance. She emphasised that the website stated that *"Public parking is possible on street opposite the hotel on a first come first served basis – the hotel has no control over parking spaces, but these are free when available"*.

A reply came back from Dennis Sangweme stating that "officers are meeting shortly to review this case as a priority and we will come back to you asap."

XXXX pointed out to Councillors that she had been trying for a year to persuade officers to treat this illegal development as a priority whilst the refurbishment of the premises was ongoing. She said that it was astonishing to her and her neighbours that the case was only now being given the attention it deserved due to the fact that the hotel has already opened. Tim McNally told her he would escalate the matter to the relevant director – Steve Platts – to indicate that he takes this very seriously.

### **May 2012**

LBS serves a stop notice and an enforcement notice against the premises at 1-20 Spurgeon Street and 58 Great Dover Street.

### **June 2012**

Stop notice is ignored. Councillors and council officers have been able to book rooms at the hotel. There are reviews of the hotel on various websites.

Gavin Blackburn informs us that an appeal has been lodged against the enforcement notice served in May. There are a number of grounds to the appeal. The main grounds are:

- a) that the hotel should be granted planning permission
- b) that the breach of planning control as described by the notice has not occurred (they will expand on this during the course of the appeal, but Gavin believes their point to be

that they are essentially carrying on a use that is not materially different to the hostel use that existed before).

c) that the Council was out of time to serve the notice, the change having occurred either when Europa Gold acquired the building in 1988, or in 2000 when the hostel use began. The Council needed to act within ten years of the change of use.

Re the Stop Notice being breached, Gavin informed us that the usual remedy is to prosecute the relevant person. If the appeal was only on the first ground that planning permission should be issued, the fact that there is an existing breach of planning control would be settled. Prosecution for a continuation of that breach would be a reasonably clear offence. He says that is not the case for this site.

This matter is complicated by the fact that appeal is on the two additional grounds that there is no breach of planning control and if there is a breach, the Council are too late to do anything about it. If a prosecution for breach of a stop notice reached trial before the appeal was decided, in Gavin's view a magistrate would have to decide if there had actually been a breach of planning control. That is not a role a magistrate normally has to undertake. There would be a danger of a magistrate reaching one view on this matter and a Planning Inspector another. In this instance prosecution may not be straightforward.

#### **July 2012**

Gavin informs us that the Planning Inspectorate have suggested a hearing date for 6th November 2012.

#### **November 2012**

Gavin informs us on 1 November that the solicitors acting for the hotel have requested with only a few days' notice that the hearing on 6 November be adjourned. The Planning Inspectorate subsequently notifies him that having taken into account the comments from both parties it is the view of the appointed Inspector that the appeal cannot be properly dealt with by a hearing and will now proceed by way of local inquiry.

#### **January 2013**

We are still awaiting confirmation of the date of the public inquiry. XXXX spoke to the Case Officer at the Planning Inspectorate in November who does not believe it will take place before March 2013 at the earliest. She believes it will be a two-day inquiry.

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**As is clear from the above, the owners of these premises have been running rings around both the planning system and the legal system for more than 12 years.**

**They appear to be untouchable in relation to rules and regulations which apply to the rest of us.**

**Even if the appeal is not upheld - or if a future planning application is refused - we know from bitter experience that any conditions attached to the operation of the premises in general and the hotel in particular will be ignored.**

**Southwark Council appears to be unwilling or unable to enforce the law in this case.**

20 January 2013